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11 INTELIUS, INC.

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
14 **SOUTHERN DIVISION**

15 LISA LIBERI, et al.,  
16 Plaintiffs,  
17 v.  
18 ORLY TAITZ, et al.,  
19 Defendants.

Case No. 8:11-cv-00485-AG (AJWx)

Assigned for all purposes to  
Hon. Andrew J. Guilford

**DECLARATION OF BENJAMIN  
NELSON IN SUPPORT OF  
INTELIUS' MOTION TO DISMISS**

20  
21 Date: October 17, 2011  
22 Time: 10:00 a.m.  
23 Dept: 10 D  
24  
25  
26  
27  
28

**DECLARATION OF BENJAMIN NELSON**

I, Benjamin Nelson, declare and state:

1. I am the Custodian of Records of the Consumer Business Unit of Intelius Inc. (“Intelius”). I have been Custodian of Records of the Consumer Business Unit of Intelius for six years. I make this Declaration in Support of Intelius’ Motion to Dismiss. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, I could and would competently testify concerning such matters.

2. Intelius owns and operates various interactive websites—including [www.intelius.com](http://www.intelius.com) and [www.talentwise.com](http://www.talentwise.com)—that allow users to obtain, over the Internet, various public records, such as addresses, phone numbers, and court records. Intelius’ business is separated into two distinct divisions: The “Consumer Division” and the “Enterprise Division.” The two divisions offer very different products and services.

3. The Consumer Division serves users seeking public records information for reasons other than employment screening, tenant screening, or other purposes covered by the Fair Credit Reporting Act. The Consumer Division operates through [www.intelius.com](http://www.intelius.com). One of the services that Intelius offers users through its Consumer Division is a generic “background check” search.

4. The Enterprise Division, by contrast, serves users seeking employment or tenant screening products—products and services that are designed to be fully compliant with the Fair Credit Reporting Act. The services Intelius offers through its Enterprise Division are provided through Intelius’ subsidiary, TalentWise Solutions, LLC at [www.talentwise.com](http://www.talentwise.com).

5. Intelius maintains record of every search that was ever run on any individual’s name. According to Intelius’ records, the only defendant in this case to have ever conducted a search on “Lisa Liberi” was Orly Taitz on April 12, 2009 through Intelius’ website, [www.intelius.com](http://www.intelius.com). That search was a generic

1 “background search,” which contains only public information. I attach as Exhibit 1  
2 to this Declaration, a true and correct copy of the search results Orly Taitz obtained  
3 on the name “Lisa Liberi” on April 12, 2009 through www.intelius.com.

4 6. Intelius’ records also indicate that Ms. Liberi herself conducted a  
5 search on the name “Lisa Liberi” on April 10, 2010 through www.intelius.com.  
6 I attach as Exhibit 2 to this Declaration, a true and correct copy of the search results  
7 Ms. Liberi obtained on the name “Lisa Liberi” on April 10, 2010 through  
8 www.intelius.com. Intelius’ records also indicate that Ms. Liberi conducted two  
9 searches on herself, on April 10 and 12, 2010, respectively, through  
10 www.talentwise.com. I attach as Exhibit 3, a true and correct copy of the  
11 TalentWise reports Ms. Liberi purchased on herself.

12 7. Before anyone can run any search through Intelius’ websites, including  
13 the “background check” searches that Ms. Taitz and Ms. Liberi ran on the name  
14 “Lisa Liberi” on www.intelius.com, they must agree to be bound by Intelius’  
15 “Terms and Conditions,” which are accessible via hyperlink on the order  
16 confirmation screen. (See <http://www.intelius.com/useragreement.php>).  
17 This confirmation screen is a webpage that requires users to confirm their purchase,  
18 and to make the following affirmation: “I accept the Terms and Conditions.”  
19 The user conducting the search must then click a button on the screen titled,  
20 “Complete the Purchase and Show my Report,” to finalize the purchase.

21 8. Intelius’ “Terms and Conditions” read, in part, as follows:

- 22 **1. Access to Intelius.** Upon registration, Intelius  
23 grants you a nontransferable, nonexclusive license  
24 to access our databases and the information  
25 contained in the databases, solely for the purpose  
26 of performing data verification, person, property  
27 and address location and related searches for  
28 qualified individual non-commercial use only.

Intelius may authorize broader enterprise business use through its enterprise services program.

\* \* \*

4. **FCRA Restrictions.** Intelius is not a consumer reporting agency as defined in the Fair Credit Reporting Act (“FCRA”), and the information in the Intelius databases has not been collected in whole or in part for the purpose of furnishing consumer reports, as defined in the FCRA. You shall not use any of our information as a factor in (1) establishing an individual’s eligibility for personal credit or insurance or assessing risks associated with existing consumer credit obligations, (2) evaluating an individual for employment, promotion, reassignment or retention (including employment of household workers such as babysitters, cleaning personnel, nannies, contractors, and other individuals), or (3) any other personal business transaction with another individual (including, but not limited to, leasing an apartment).

A true and correct copy of Intelius’ “Terms and Conditions” are attached as Exhibit 4 to this Declaration. Although Intelius’ “Terms and Conditions” get modified and amended from time to time, I can attest the Paragraphs 1 and 4 of the “Terms and Conditions” (quoted above) are the same as those that were presented and agreed to Ms. Taitz and Ms. Liberi when they purchased their “background check” searches on the name “Lisa Liberi.”

1           9.     A “background check” search through Intelius at [www.intelius.com](http://www.intelius.com)  
2 provides users with only public information from public sources about the potential  
3 person the user is searching for (such as name, address, phone numbers). To locate  
4 public records over the Intelius website via a “background check” search, a user  
5 enters three search terms: first name, last name, and state of residence of the person  
6 they are searching for. The website then performs a search that accesses public  
7 records databases, and identifies all records that contain the search terms.  
8 The website retrieves the matching records, and displays them. The website almost  
9 instantly filters through millions of public records to yield results based on the  
10 search terms. Because there are many people that share the same or very similar  
11 names, a search will return public records for different individuals with the same or  
12 similar name—just as a phonebook has multiple listings for different people with  
13 the same name.

14           10.    A “background check” does not contain any original content created  
15 by Intelius.

16           11.    None of the search results obtained by Ms. Taitz on the name “Lisa  
17 Liberi” contained non-public information, such as social security numbers, financial  
18 information, or credit information.

19           12.    Intelius’ records indicate that Todd Sankey, Neil Sankey, Sankey  
20 Investigations, Inc., and The Sankey Firm, Inc. (the “Sankey Defendants”) did not  
21 run a background check or any other search on the name “Lisa Liberi” (or  
22 Ms. Liberi in any capacity), including on April 8, 2009. The Intelius account of  
23 Neil Sankey—the only Sankey Defendant ever having an account with Intelius was  
24 not created until November 30, 2009.

25           13.    Neither Todd Sankey, Yosef Taitz, nor Lisa Ostella has ever had an  
26 Intelius account.

27           14.    On April 14, 2010, counsel Philip Berg sent a letter to Intelius (on  
28 behalf of Ms. Liberi) to Naveen Jain, CEO of Intelius, dated April 14, 2010. On

1 page 5 of this letter, Mr. Berg challenges the accuracy of certain information  
2 appearing on a report that Ms. Liberi acquired on herself: social security numbers,  
3 names and addresses. The exact wording of his letter is as follows:

4 On April 11, 2010, Mrs. Liberi again pulled her Intelius  
5 report as a result of actions of Orly Taitz, Esquire. Only  
6 this time, her Intelius record was completely changed.  
7 As of April 11, 2010, Intelius has now combined  
8 Mrs. Liberi's old and new Social Security number [462-  
9 xx-xxxx and 622-xx-xxxx]; added her maiden name of  
10 Richardson and other names, many of which have never  
11 belonged to or been used by Lisa Ren  Liberi as well as  
12 her home [house] address. Moreover, there are  
13 approximately six [6] different Social Security numbers  
14 tied to Lisa Ren  Liberi's report, which have never  
15 belonged to or been used by Lisa Ren  Liberi. What is  
16 more ironic are the names and "multiple Social Security  
17 numbers" appearing is exactly what Orly Taitz, Esquire  
18 and Neil Sankey had accused her of. Lisa Ren  Liberi,  
19 Lisa M. Ostella and Mrs. Ostella's husband's Social  
20 Security numbers are now flagged showing multiple  
21 people using their numbers.

22 A true and correct copy of the letter Mr. Berg sent on behalf of Ms. Liberi to  
23 Naveen Jain, dated April 14, 2010, is attached hereto as Exhibit 5.

24 15. Intelius' records indicate that the name "Lisa Ostella" was never  
25 searched through Intelius or any of its affiliates.

26 16. On October 29, 2010, Ms. Ostella wrote a letter to Intelius requesting  
27 the names of any person that had ever done a search on her. A true and correct  
28 copy of that letter is attached hereto as Exhibit 6. Intelius responded to that letter

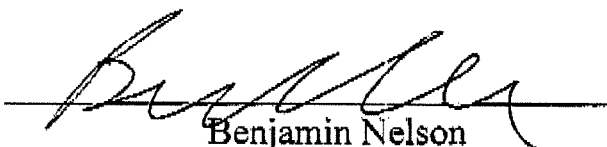
1 on December 6, 2010, and informed Ms. Ostella that, absent a subpoena or court  
2 order, Intelius' terms and conditions prohibit the disclosure of such information. A  
3 true and correct copy of that letter is attached hereto as Exhibit 7. Intelius has no  
4 record that Ms. Ostella pursued this inquiry any further.

5 17. Intelius' records indicate that the name "Phillip Berg" was never  
6 searched through Intelius or any of its affiliates.

7 18. Intelius' website does not provide users with the ability to search for  
8 information on business organizations, such as Go Excel Global and The Law  
9 Offices of Philip J. Berg. A true and correct copy of Intelius' "Frequently Asked  
10 Questions," which advise users of this fact, is attached as Exhibit 8 to this  
11 Declaration. Intelius does not possess, and has never provided to anyone, any  
12 information on Go Excel Global or The Law Offices of Philip J. Berg.

13 19. In the interests of completeness, three other individuals ran searches on  
14 the name "Lisa Liberi" through Intelius: (i) Katrinka Lawson; (ii) Teresa Loggia;  
15 and (iii) Julieana Choy. Each of these searches were generic "background check"  
16 searches of the kind that Liberi and Taitz had run on the name "Lisa Liberi." These  
17 searches contained only public information about the name "Lisa Liberi" generally,  
18 not "Lisa Liberi" the plaintiff in this case. That is, they did not contain any non-  
19 public information about any person named "Lisa Liberi." While I understand that  
20 Ms. Lawson, Ms. Loggia and Ms. Choy are not parties to this case and are not  
21 mentioned in the complaint, I felt that the Court should be aware of the complete  
22 search history on the name "Lisa Liberi" in ruling on Intelius' motion.

23 I declare, under penalty of perjury, under the laws of the United States of  
24 America, that the foregoing is true and correct. Executed this 16 day of  
25 September, 2011, in Bellevue, Washington.

26  
27   
28 Benjamin Nelson